REMARKS

Claims 29, 33, 37, 41-47, 50 and 52 are pending in the present application. Applicant notes with appreciation the allowance of claims 29, 33, 37, 47, 50 and 52. Applicant herewith files a Request for Continued Examination with this accompanying Amendment to withdraw the application from appeal without prejudice. With entry of this Amendment, Applicant amends claims 41, 45 and 46. Reexamination and reconsideration are respectfully requested.

The Examiner maintained his rejection of claims 41-46 under 35 U.S.C. § 103(a) in view of Moline et al. (US 5883957), Isozaki (US 5,999,905) and Shioda (US 5,430,243).

The apparatus of the present invention performs two interrelated operations. First, the apparatus judges whether a given data is the _first_ in a series of music data received from an external device via a public communications line. Second, the invention performs a time adjustment depending on whether the data is first or not. If the data is the first received data, its time information is adjusted to set the time information for the apparatus.

Claim 41, for example, recites "a judging device that judges whether each of said received music data is received first from the external device or not" and "a controlling device that rectifies said first time information by a predetermined value and sets the rectified first time information as second time information for the music data processing apparatus when said judging device judges said received musical data is the first received data and does not set the first time information as the second time information when said judging devices judges said received music data is not the first received data." Applicant notes that claims 41, 45 and 46 previously recited "initial data." Although this term conveys the concept of the first data in a series of received data, Applicant has amended claims 41, 45 and 47 to recite "first received data" to clearly define the invention.

Applicant respectfully submits that the Examiner has failed to appreciate these two interrelated operations. In the most recent Advisory Action, the Examiner states that a determination "whether data is initial or part of an existing session" is obvious and not patentably distinct. Assuming the Examiner's position is correct (which Applicant does not concede), it does not address the second operation, i.e., performing a time adjustment based on

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whether the data is first or not. The Examiner has failed to show how an obvious determination (in his view) is used in the cited references to determine whether a time adjustment should be made.

Applicant notes that the time adjustment in Moline is performed regardless of whether data received is first or not. Specifically, the time conversion by Moline's MIDI plugin is performed for *each* event data. As disclosed in Col. 9, lines 42-57, the MIDI plugin's file reader converts the elapsed time descriptor to a time stamp for each event received. The conversion is not based on determining whether the event is the first event or not. Indeed, the fact that a conversion is made for each event teaches away from the Examiner's conclusion that determining the first received data is obvious. Moline utilizes an inefficient system that requires a time conversion for every event whereas, in the present invention, no time adjustment is necessary after the first received data.

Furthermore, even if one assumes for argument that somehow Moline suggest the above (which it does not), Moline does not disclose the claimed time adjustment. The present invention utilizes the time information of the first received data to set the time for the apparatus. The above conversion from elapsed time descriptor to time stamp does not set the time for the MIDI plugin. The conversion is for simplifying the computation of the MIDI generator 231 of the MIDI plugin 431 – not adjusting the time of the plugin 431. See Col. 9, lines 48-49 and Col. 6, lines 58-62. Moreover, the embodiment disclosed at Col. 13, lines 7-19 creates a delay period between the server start time and the play start time irrespective of the time information of the first received data.

Isozaki and Shinoda do not disclose receiving music data from an external device via a public communications lines and, thus, fail to disclose judging whether the data is first received data and performing at time adjustment based on whether the data is the first received data.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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If, for any reason, the Examiner finds the application other than in condition for allowance, Applicant requests that the Examiner contact the undersigned attorney at the Los Angeles telephone number (213) 892-5630 to discuss any steps necessary to place the application in condition for allowance.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. 393032003100. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

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Mehran Arjomand
Registration No. 48,231

Morrison & Foerster LLP
555 West Fifth Street
Suite 3500
Los Angeles, California 90013-1024
Telephone: (213) 892-5630
Facsimile: (213) 892-5454

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